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Nos. 83-812 and 83-929

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

GEORGE C. WALLACE, GOVERNOR OF THE STATE OF ALABAMA, *et al.*,
Appellants

v.

ISHMAEL JAFFREE, *et al.*

DOUGLAS T. SMITH, *et al.*,
Appellants

v.

ISHMAEL JAFFREE, *et al.*

Appeal from the United States Court of Appeals for the Eleventh Circuit

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REPLY BRIEF OF APPELLANT, GEORGE C. WALLACE

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The appellant has incorrectly characterized Alabama's mediation-or-voluntary-prayer statute as one "attempting to promote or facilitate a religious exercise." Appellee's Brief at 9. He equates providing an opportunity to pray with promoting a religious exercise. What the statute

does is to allow students the opportunity during a minute of silence to meditate on what they will, which may include prayer. Students have the liberty of mind and conscience during a brief moment at the beginning of the day, after which the teacher will dictate what will occupy their minds. The state is not "promoting" religion because it is not directing or counselling what a student should think. Rather, the statute represents a recognition by the state of the limits beyond which it cannot go in dictating the thoughts of the students.

The fact that some students will be praying silently does not make this "group prayer", as the appellee charges. Appellee's Brief at 3. "Group prayer" is vocal and involves a unity of intention or purpose not possible under the instant statute. The only unity or conformity produced by this statute is that of silence and non-activity, at least for one minute during the busy day. During this brief moment, the quiet allows those who wish to do so, to mediate or pray without the distraction of noise or activity.

Many Americans have incorrectly concluded that the Constitution is hostile to religion. Some proponents of a constitutional amendment to allow school prayer are under the misimpression that this Court has prevented students even from praying silently. Some who oppose proposals for a constitutional amendment believe the history, text, and purpose of the Establishment Clause requires the rooting out of prayer even if it means the denial of a student's legitimate right to initiate his own private prayer. By upholding Alabama's meditation-or-voluntary-prayer statute, this Court will have corrected some of the misimpressions on both sides of the public debate and, reaffirmed the Religion Clauses' principle of pluralism.

For the foregoing reasons and those stated in our opening brief, the judgment of the court of appeals should be reversed.

Respectfully submitted,

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